

JEROME JOHNSON,)
)
Plaintiff,)
)
vs.) Case No. 4:06CV605 CDP
)
BOARD OF POLICE)
COMMISSIONERS, et al.,)
)
Defendants.)

Defendants seek to strike plaintiff's experts under Federal Rules of Civil Procedure 16(f) and 37(c) as a sanction for plaintiff not producing expert reports within the deadline set out in the Case Management Order. Plaintiff argues that his untimely disclosure of expert reports is substantially justified because of the logistical difficulties of being incarcerated and because of the delay caused by defendants refusal to provide documents.

There are two expert reports at issue. One of the reports has been disclosed by plaintiff since the filing of the motion to strike. The other report has been delayed by defendants refusal to provide documents. On November 7, 2006, the Court ordered that these necessary documents be produced. Plaintiff states that he can provide the remaining report to defendants within 20 days of receiving the compelled documents. Since the Court ordered production of those documents

within ten days of its November 7, 2006, Order, the plaintiff has represented that he will provide the expert report by **December 7, 2006**. Plaintiff must meet this deadline or sanctions will be imposed.

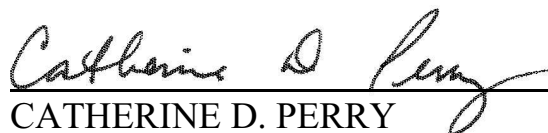
Due to the delays in discovery, the deadlines in the Case Management Order and those amended by the Court's order of September 13, 2006, are no longer feasible. The parties should submit a joint proposed Amended Case Management Order by **December 8, 2006**. This revised scheduling plan should reflect deadlines that are achievable in light of predictable delays. This case will still be referred to alternative dispute resolution on December 1, 2006. The Court does not expect to grant any more extensions.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion to strike plaintiff's experts [#19] is denied, subject to being raised later if plaintiff does not provide his second and final expert report by **December 7, 2006**.

IT IS FURTHER ORDERED that the parties shall file a joint proposed Amended Case Management Order by **December 8, 2006**.

Dated this 28th day of November, 2006.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE